

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

CHRISTOPHER PASATIERI
Plaintiff,

- against -

STARLINE PRODUCTIONS, INC.
Defendant.

Docket No. 18-cv-04688

JURY TRIAL DEMANDED

COMPLAINT

Plaintiff Christopher Pasatieri (“Pasatieri” or “Plaintiff”) by and through his undersigned counsel, as and for his Complaint against Defendant Starline Productions, Inc. (“Starline” or “Defendant”) hereby alleges as follows:

NATURE OF THE ACTION

1. This is an action for copyright infringement under Section 501 of the Copyright Act. This action arises out of Defendant’s unauthorized reproduction and publishing of a copyrighted photograph of a Star Wars® character cosplay, owned and registered by Pasatieri (the “Photograph”). Accordingly, Pasatieri seeks monetary relief under the Copyright Act of the United States, as amended, 17 U.S.C. § 101 *et seq. eq.*

JURISDICTION AND VENUE

2. This claim arises under the Copyright Act, 17 U.S.C. § 101 *et seq.*, and this Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. §§ 1331 and 1338(a).

3. This Court has personal jurisdiction over Defendant because Defendant resides in New York in this Judicial District.

4. Venue is proper in this District pursuant to 28 U.S.C. § 1391(b).

PARTIES

5. Pasatieri is a professional New York-based photographer having a usual place of business at 3310 Nostrand Avenue, Apt. 312, Brooklyn, NY 11229.

6. Upon information and belief, Starline is a domestic corporation duly organized and existing under the laws of New York with a place of. Business in this judicial district located at 9923 Avenue J, Brooklyn, New York, 11236.

7. Upon information and belief, at all times material hereto, Defendant has owned, controlled and operated the print magazine *Cosplay Culture* (the “Magazine”) and Magazine at the URL: www.cosplayculture.com (the “Website”).

8. Starline is a for-profit business.

9. The Magazine publishes Cosplay-oriented news articles and photographs.

10. The Magazine contains substantial advertising, including adjacent to the Defendant’s unauthorized use of the Photograph.

11. Defendant derives substantial revenue from sales of the magazine and the advertising in the Magazine.

STATEMENT OF FACTS

A. Background and Plaintiff’s Ownership of the Photograph

12. Pasatieri is the author, copyright claimant, and owner of all rights in the Photograph. A true and correct copy of the Photograph is attached hereto as Exhibit A.

13. Pasatieri is the owner of all right, title and interest in and to the Photograph, including the copyright thereto.

14. The Photograph was registered with the U.S. Copyright Office and was given Copyright Registration Number VA 2-103-277, effective as of May 15, 2018. A true and correct copy of the registration certificate for Copyright Registration Number VA 2-103-277 is attached hereto as Exhibit B.

B. Defendant's Infringing Activities

15. Starline, in the December/January 2018 issue of the Magazine, published an article featuring the Photograph titled '*Mazing Mandos – The Mandalorian Mercs* (the "Article"). A true and correct copy of images from the Article showing Defendant's unauthorized use of the Photograph are attached hereto as Exhibit C.

16. Defendant did not license the Photograph from Plaintiff for its Magazine or any other use.

17. Defendant did not have Plaintiff's permission or consent to publish the Photograph in its Magazine.

FIRST CLAIM FOR RELIEF
(COPYRIGHT INFRINGEMENT AGAINST Starline)
(17 U.S.C. §§ 106, 501)

18. Plaintiff incorporates by reference each and every allegation contained in Paragraphs 1-17 above.

19. Defendant infringed Plaintiff's copyright in the Photograph by reproducing and publicly displaying the Photograph in the Magazine. Defendant is not, and has never been, licensed or otherwise authorized to reproduce, publicly display, distribute and/or use the Photograph.

20. The acts of Defendant complained of herein constitute infringement of Plaintiff's copyright and exclusive rights under copyright in violation of Sections 106 and 501 of the Copyright Act, 17 U.S.C. §§ 106 and 501.

21. Upon information and belief, the foregoing acts of infringement by Defendant have been willful, intentional, and purposeful, in disregard of and indifference to Plaintiff's rights.

22. As a direct and proximate cause of the infringement by the Defendant of Plaintiff's copyright and exclusive rights under copyright, Plaintiff is entitled to damages and defendant's profits pursuant to 17 U.S.C. § 504(b) for the infringement.

23. Defendant's conduct, described above, is causing, and unless enjoined and restrained by this Court, will continue to cause Plaintiff irreparable injury that cannot be fully compensated by or measured in money damages. Plaintiff has no adequate remedy at law.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff respectfully requests judgment as follows:

1. That Defendant Starline be adjudged to have infringed upon Plaintiff's copyrights in the Photograph in violation of 17 U.S.C §§ 106 and 501;
2. That Defendant Starline be ordered to remove from sale and recall from its distributors any and all remaining issues of the Magazine containing the Photograph;
3. That Plaintiff be awarded Plaintiff's actual damages and Defendant's profits, gains or advantages of any kind attributable to Defendant's infringement of Plaintiff's Photographs;

4. That Defendant be required to account for all profits, income, receipts, or other benefits derived by Defendant as a result of its unlawful conduct;
5. That Plaintiff be awarded pre-judgment interest; and
6. Such other and further relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a trial by jury on all issues so triable in accordance with Federal Rule of Civil Procedure 38(b).

Dated: Valley Stream, New York
August 20, 2018

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